

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MR. JAMAL Y. BARR : CIVIL ACTION
:
vs. :
:
DAVID DIGUGLIELMO, et al. : NO. 08-316

MEMORANDUM

ROBERT F. KELLY, Sr. J.

SEPTEMBER 4, 2008

Jamal Y. Barr has filed what we will treat as a request for an extension of time to file an appeal from this Court's Order entered May 30, 2008, (Doc. No. 14). Mr. Barr's notice of appeal was filed July 17, 2008, (Doc. No. 16), which was beyond the 30 day period set forth in Fed. R. App. P. 4(a)(1)(A).

Mr. Barr filed the present motion seeking an extension of time to file an appeal with the Clerk of the Third Circuit Court of Appeals on August 28, 2008. That was subsequently correctly filed with the Clerk of the District Court on August 29, 2008. Because this motion to extend was filed within 30 days after the time prescribed by Rule 4(a)(1)(A) we may extend the time to file a notice of appeal if Mr. Barr demonstrates an excusable neglect or good cause. Rule 4(a)(5)(A)(i)(ii).

It appears from Mr. Barr's motion that he was placed in the prison "restricted housing unit" for at least a three week period while the 30 day time to appeal ran. During his time in the "restricted housing unit" he was separated from his personal items including his legal material preventing him from filing the appeal. Because we find that this is good cause we will extend the time for the filing of Mr. Barr's appeal.

We therefore enter the following Order.

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O R D E R

AND NOW, this 4th day of September, 2008, it is hereby **ORDERED** that Plaintiff Jamal Y. Barr is granted 10 days from the date of this Order to file an appeal.

BY THE COURT:

/s/ Robert F. Kelly
ROBERT F. KELLY
SENIOR JUDGE